

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

THEODORE OKECHUKU

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

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Case No. 5:22cv135

ORDER OF DISMISSAL

Petitioner Theodore Okechuku, proceeding through retained counsel, filed this petition for the writ of habeas corpus under 28 U.S.C. § 2241 complaining of the legality of his conviction. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Petitioner, a licensed physician, was convicted of conspiracy to unlawfully distribute controlled substances in the U.S. District Court for the Northern District of Texas, receiving an aggregate sentence of 300 months in prison. He filed a direct appeal of his conviction and a motion to vacate or correct sentence under 28 U.S.C. § 2255, both of which proved unsuccessful.

Petitioner then filed this petition for the writ of habeas corpus under 28 U.S.C. § 2241, invoking the savings clause of 28 U.S.C. § 2255(e). He argued that the recent Supreme Court decision in *Ruan v. United States*, 142 S.Ct. 2370 (2022) operated retroactively and rendered him actually innocent of the offense with which he was charged.

The Respondent filed a motion to dismiss the petition, to which Petitioner filed a reply. After review of the pleadings, the Magistrate Judge issued a Report recommending that the motion to dismiss be granted and the petition dismissed. No objections have been filed; accordingly, the parties are barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017), citing *Douglass v. United Servs. Auto. Ass'n*,

79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1).


The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (Dkt. No. 8) is **ADOPTED** as the opinions of the District Court. It is further

ORDERED that the Respondent's motion to dismiss (Dkt. No. 6) is **GRANTED** and the Petitioner's application for the writ of habeas corpus is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**. The Clerk shall close this case.

So ORDERED and SIGNED this 25th day of August, 2023.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE